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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 5 April 2005 from the Permanent Mission of Jamaica to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Jamaica to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to forward the report by the Government of Jamaica in accordance with paragraph 4 of the aforementioned resolution (see annex).

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Annex to the note verbale dated 5 April 2005 from the Permanent Mission of Jamaica to the United Nations addressed to the Chairman of the Committee

Report of the Government of Jamaica pursuant to Security Council resolution 1540 (2004)

The Government of Jamaica hereby submits its report to the Security Council Committee established pursuant to resolution 1540 (2004). This report outlines actions by Jamaica as it relates to the implementation of Security Council Resolution 1540.

Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear weapons and their means of delivery.

The Government of Jamaica has not provided and does not intend to provide any support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear weapons and their means of delivery.

Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

Jamaica presently does not have domestic legislation specifically prohibiting any non-State actors from manufacturing, acquiring or transferring nuclear, chemical or biological weapons. However, as a party to a number of related international conventions, implementing legislation is anticipated which would serve to criminalise related activities.

In addition there is domestic criminal legislation under which the component activities of such acts may be prosecuted.

Domestic legislation criminalizing acts relating to prohibiting and suppressing non-state actors from manufacturing, acquiring, possessing, transporting, transferring or using of nuclear, chemical or biological weapons, include:

The Aircraft (Tokyo, Hague and Montreal Conventions) Act

The Customs Act

The Corruption Prevention Act

The Explosives (Control of Manufacture) Act

The Explosives (Sale of Deposited Stores) Act

The Extradition Act

The Firearms Act

The Gunpowder and Explosives Act

The Mutual Legal Assistance Act

The Money Laundering Act

The Offences Against the Person Act

Amendments to update some of this legislation and to enable implementation of various international obligations are anticipated.

Legislation currently under consideration for amendment includes the Firearms Act, the Gunpowder and Explosives Act and the Money Laundering Act.

Anticipated Legislation:

Legislation is anticipated and is being prepared for the purposes of implementing the various international obligations Jamaica has assumed or intends to assume. These include:

(i) The Forty Recommendations of the Financial Crimes Task Force (FATF)

A Bill entitled An Act to Amend the Money Laundering Act
The Act to amend the Money Laundering Act, expands the categories of individuals required to report financial transactions to the relevant body established under the Act. It is intended to implement the forty recommendations of the Financial Crimes Task Force (FATF) on combating money laundering and terrorist financing. The Bill is currently being considered by a Joint Select Committee of Parliament.

(ii) Security Council Resolution 1373 and the United Nations Terrorism Conventions

A Bill entitled an Act to provide Measures to Combat Terrorism and for connected matters (the Terrorism Prevention Bill) makes terrorist acts an offence, and more particularly, criminalises certain activities as requested by the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, the Convention for the Suppression of Terrorist Bombings and the Convention on the Physical protection of Nuclear Materials.

Accordingly, the Bill makes it a criminal offence to receive, alter, use, possess, transfer or disperse of nuclear material without lawful authority and which is or is likely to cause death, serious injury or property damage. Stealing, robbing or embezzling or fraudulently obtaining nuclear materials is an offence as is demanding such material by threat or intimidation.

Under the Bill, it is an offence to intentionally deliver or detonate an explosive or other lethal device with the intention of causing death, serious bodily injury or to cause physical destruction. Explosives are defined to include any weapons or device capable of causing death, serious bodily injury or property damage through the release of toxic chemicals, biological agents, radiation or radioactive materials.

The Bill was passed in the House of Representatives on March 15, 2005. It will become law after it has been passed by the Senate and assented to by the Governor-General.

(iii) The Chemical Weapons Convention

Legislation is currently being drafted with a view to implementing Jamaica's obligations under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

(iv) The Comprehensive Nuclear Test Ban Treaty

Legislation is currently being drafted to implement the Comprehensive Nuclear Test-Ban Treaty.

(v) The United Nations Convention Against Transnational Organized Crime and the Protocols

Legislation, as well as amendments to existing laws, is anticipated to implement obligations under these Conventions, most notably in relation to the Firearms Act and the Gunpowder and Explosives Act.

Amendments will also enable implementation of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, based on the Inter-American Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition, an administrative guide for the monitoring of the movement of weapons, ammunition and explosives.

(vi) Biological Weapons Convention

Legislation will be drafted to implement the obligations under this Convention.

Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) develop and maintain appropriate effective physical protection measures;

Jamaica has not nor does it intend to develop, nor does it have in its possession nuclear, chemical or biological weapons, therefore the measures referred to above are not of immediate relevance.

Government controls exist to prevent the diversion of any materials which could be used in the manufacture of chemical or biological weapons.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary the illicit trafficking and brokering in such items in accordance with their national legal authorities and regulations and consistent with international law.

Although, there is no specific domestic legislation relating to the production, storage, use or transport of such weapons, the Contraband Enforcement Team of the Jamaica Customs is charged with the responsibility of reducing or preventing the inward and outward flow of contraband, including nuclear, biological and chemical weapons and materials at all points of entry or exit into the territory of Jamaica, and to ensure compliance with customs and related domestic laws.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment such as financing and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

Jamaica has been engaged in the strengthening of its borders, firstly by tightening security at the major ports of entry (both air and sea). New surveillance equipment has been installed at the ports of Kingston and Montego Bay to monitor movement of cargo and persons.

Further, the Government of Jamaica has acquired x-ray machines for the scanning of all inbound, outbound and in transit containers, for the detection of firearms or other contraband.

The Jamaican Coast Guard has benefited from the provision of "go fast" boats to assist in their patrolling of Jamaica's coastline.

The Government of Jamaica has also implemented stringent measures to monitor the movement of dangerous cargo throughout our territorial waters and into our ports.

Shipping agents are required to provide notification of ships which are carrying cargo, especially firearms, to the security authorities, including all export, import and transhipment documentation for approval, and prior to the ships being able to offload or transfer containers in the port facilities. The consignor and consignee details, country of origin, country of final destination and all requisite permits from the relevant national security agencies must be produced, or permission will not be granted for the vessel to use Jamaica's port facilities.

Jamaica applies the Inter-American Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition as its administrative guide for monitoring of the movement of weapons, ammunition and explosives via Jamaican ports of entry.

The security forces are notified of such vessels and their cargo and provide 24 - hour protection for such containers in transit. Where the container is not in immediate transit the cargo is taken off the port and sent to the Jamaica Defence Force for safe keeping and is returned only when the departing vessel is ready to receive this cargo.

In compliance with the International Ship and Port Facility Security (ISPS) Code, the object of which is to strengthen security in the maritime industry and to combat and suppress acts of terrorism against shipping, Jamaica has been securing its ports. The ISPS Code was adopted 12 December, 2002 by the membership of the International Maritime Organization (IMO).

A committee has been established to implement the requirements of the ISPS Code, and there have been on-site visits to Jamaica's ports. Recommendations have been made and to date at least twenty (20) ports, constituting the vast majority of Jamaican ports, have been accredited.

With a view to further strengthening port security, a Port Security Act is anticipated. A draft Bill is currently under review by the relevant Ministries of Government.

Paragraph 6

Recognising the utility of in implementing this resolution of effective national control lists, and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

As earlier indicated, Jamaica does not intend to develop nuclear, chemical or biological weapons nor does it possess such weapons.

Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in apposition to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions.

The Government of Jamaica is assessing its technical assistance needs for the implementation of Security Council Resolution 1540 (2004) and will advise the Security Council Committee in due course.

Paragraph 8

Calls upon all States:

a) To promote the universal adoption and full implementation, and where necessary, strengthening of multilateral treaties to which they are a party, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons

Jamaica is committed to international peace and security and the use of nuclear energy for safe and peaceful purposes. To that end, Jamaica has undertaken binding legal obligations under international law and is a party to the following Conventions:

- The Comprehensive Nuclear Test-Ban Treaty
- The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.
- The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Bacteriological (Biological) and Toxic Weapons and on their Destruction.

- The Treaty on the Non-Proliferation of Nuclear Weapons
- Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean

b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties

The response to this is contained under paragraph 2.

c) To renew and fulfil their commitment to multilateral cooperation, in Agency, the Organization for the Prohibition of the Chemical Weapons and the Biological and Toxin Weapons Convention as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes

Jamaica continues to support the aims and objectives of the International Atomic Energy Agency. Jamaica is a State Party to the IAEA and has signed the Additional Protocol.

Jamaica is a State Party of the OPCW and is fully supportive of the aims, objectives and activities of the organisation.

Jamaica is a State Party to the Biological Weapons Convention.

d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws

There is continued collaboration and interaction at the inter-ministerial level on the implementation by Jamaica of its various international obligations under these conventions. Such Ministries include the Ministries of Health, Energy and Commerce and Technology.

Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

As a member of the United Nations, Jamaica is in favour of efforts to promote dialogue and cooperation to discuss non-proliferation matters. Such action should strengthen multilateral action on non-proliferation.

Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials

Please see responses contained in the preceding paragraphs.

In conclusion, Jamaica reaffirms its support for the goal of general and complete disarmament and non-proliferation in order to strengthen international peace and security. Jamaica also supports international efforts to combat terrorism and is committed to fulfilling its obligations under relevant multilateral conventions.